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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

LIBERTY MUTUAL INSURANCE
COMPANY, a foreign corporation,

Plaintiff,

vs.

A4 CONSTRUCTION COMPANY, INC., a
Utah corporation; SHAWN M. ANDERSON,
an individual; and AMY M. ANDERSON, an
individual,

Defendants.

Civil No. 2:152-cv-00809 DN

**STIPULATION OF THE PARTIES AND
NON-PARTY OKLAND
CONSTRUCTION COMPANY, INC. and
ORDER VACATING TEMPORARY
RESTRAINING ORDER; PROVIDING
FOR THE PLACEMENT OF FUNDS
WITH THE COURT; AND DISMISSING
LAWSUIT WITHOUT PREJUDICE**

On November 24, 2015, the Court conducted a hearing in the above-referenced case.

During the hearing, the parties met and reached a stipulation allowing for the dismissal without prejudice of the lawsuit and other related issues. Based on the stipulation of the parties through their legal counsel, Mark F. James and Mitchell A. Stephens of Hatch, James & Dodge on behalf of Defendants A4 Construction Company, Inc. (“A4 Construction”), Shawn M. Anderson and Amy M. Anderson (collectively “A4”) and Clark B. Fetzer of Fetzer Simonsen Booth & Jenkins on behalf of Liberty Mutual Insurance Company (“Liberty”), together with D. Scott

DeGraffenried of Holland & Hart on behalf of non-party Oakland Construction Company, Inc. (“Oakland”) that was placed on the record of the Court, the Court

HEREBY ORDERS AND DECREES as follows:

1. The Temporary Restraining Order entered by the Court in this action dated November 22, 2015 is hereby immediately vacated and shall be of no further force or effect. Any hold placed on any accounts of any of the Defendants named in this action is hereby immediately released and vacated.

2. Within 24 business hours of the time that Chase Bank notifies A4 of the release of the funds contained in A4’s Chase account, A4 shall place in an account with the Court FIVE HUNDRED THIRTY EIGHT THOUSAND EIGHT HUNDRED EIGHTY FOUR AND NO/100 DOLLARS U.S. (\$538,884.00) (the “Deposit”). Such Deposit shall be reserved for payment to Baldwin Development, LLC and its subcontractor, Walker Specialty Construction Company, Inc.

3. No portion of the Deposit shall be removed from the fund established with the Court absent Court order or unanimous written consent of a representative of A4, Liberty and Oakland.

4. Liberty, A4 and Oakland agree the Deposit will be released to Baldwin for payment to Baldwin and Walker within ten (10) business days after Baldwin and/or Walker provide the paperwork to A4 necessary to allow A4 Construction to obtain the release of retention funds in the approximate amount of \$90,000.00 in connection with a contract between A4 Construction and the U.S. Army Corp of Engineers involving a project (the “Project”) on the Nellis Air Force Base in Nevada.

5. Oakland and A4 Construction shall make good faith efforts to perform an accounting to address profitability/fee (as "profitability/fee" and "Profits/fees" are contemplated by the relevant agreement between Oakland and A4 Construction relating to the Project) of costs incurred and revenues received in connection with the Project. Based on an agreed upon accounting, A4 Construction shall be entitled to receive the first \$200,000.00 of Profits, if any, received by A4 in connection with the Project, with any Profits remaining thereafter to be split such that A4 receives 51% of those Profits and Oakland 49% of the Profits.

6. The above-captioned lawsuit is hereby dismissed without prejudice, with each party to bear its/his/her own costs and attorney fees. The Court shall maintain continuing jurisdiction over the Deposit until such time as the Deposit is disbursed.

STIPULATED AND AGREED TO BY THE PARTIES THIS 24th DAY OF NOVEMBER, 2015.

HATCH, JAMES & DODGE
Mark F. James
Mitchell A. Stephens

By: 
Attorneys for A4 Construction Company, Inc.,
Shawn M. Anderson, and Amy M. Anderson

HOLLAND & HART
D. Scott DeGraffenreid

By: 
Attorneys for Oakland Construction
Company, Inc.

FETZER SIMONSEN BOOTH & JENKINS
Clark B. Fetzer
John W. Mann

By: 
Attorneys for Liberty Mutual Insurance
Company

SO ORDERED this 24th day of November 2015


David Nuffer
U. S. District Court Judge